

This bill nearly eliminates reporting requirements, and removes most requirements to demonstrate at least a minimum level of competency for basic skills and the knowledge necessary to provide a safe experience for their clients. We recognize there are still reputable outfitters in Montana but in general, the big game outfitting industry and MOGA in particular have a huge image problem with a large majority of Montana Resident Hunters.

Our distrust of what was once a respected industry and our ally in conservation will only be magnified by many of these proposed actions including a nearly total lack of oversight or even minimal qualifications to demonstrate the most basic competencies required to fulfill duties as outfitters or guides and to provide a safe and fulfilling experience for their clients.

This proposal also flies in the face a major argument MOGA made in opposition to I-161. They claimed passage of I-161 would eliminate many of the outfitter reporting requirements as if this was a bad thing. Now we see them proposing to effectively eliminate most remaining reporting and removing funding for oversight and investigations. This will pull the few remaining teeth from the board of outfitters.

These severely diluted requirements will eventually put paying clients in the hands of inexperienced or untrained outfitters and guides in a setting that may turn from tranquil to deadly very quickly.

Please do not pass this bill.

HOUSE BILL 274 Ed Greef
OPPOSE

MONTANA SPORTSMEN ALLIANCE POSITION

- The authority of the Board of Outfitters is based on the protection of public health, safety and welfare.
- The public resources that outfitters utilize in the course of their business and the public's stake in those resources is considered to be part of the "...public welfare".
- Although touted as a paperwork reduction effort, this bill essentially eliminates a broad range of requirements and standards for Montana hunting and fishing outfitters. One would think that the industry would want to uphold the highest professional standards.
- Notable in this bill is the elimination of "professional" guides.
- Also of note is that outfitters would no longer have to demonstrate proficiency in the wide range of outdoor skills, equipment, and safety training demanded by their profession (37-47-305: outfitter's examination) in order to become licensed.
- 37-47-402 provides limited liability protection to outfitters yet, this bill basically drops demonstrable operational standards while retaining the liability protection ("...health, safety and welfare.").
- The Board of Outfitters no longer has investigators who function in field situations. Instead, enforcement of statutes and rules is left to FWP Game Wardens. Yet, there remains a concerted effort to eliminate the basic reporting requirements necessary for wardens to be able to practically and effectively enforce those rules and regs.
- It is absolutely necessary that outfitters annually report their activities to the Board including the lands they are utilizing, who they outfit, what activity(ies) they engaged in as well as game harvested. By making this reporting necessary only by Board of Outfitters Administrative rule rather than statutory in Title 37, outfitter accountability along with public trust is substantially and significantly diminished.
- If lands that are leased are not formally reported, there will be no means to accurately evaluate the total acreage of private lands closed to public opportunity.
- The bill deletes the requirement that an outfitter or guide hold a conservation license. By doing so, a critical component to track a person's legal status to engage in hunting or fishing is lost. If a person has had their hunting, fishing, trapping privileges suspended he/she may not be legally fit to serve as an outfitter or guide.
- Outfitters earn their living through the utilization of Montana's publicly-held fish and wildlife resources. They need to be accountable for that use, ensuring that they use those resources legitimately, fairly and not at the expense of the non-outfitted public. This bill is a quantum leap in minimizing that accountability.

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1. The acreage reported may not have been actively used by an outfitter, if an outfitter is authorized to use a parcel of land, but does not use it, the acreage is nevertheless reported to the Montana Board of Outfitters and included on this map.
2. The acreage reported has no minimum time requirement. An outfitter authorized to use a parcel of land for any period of time will report the acreage, although the authorized use may be restricted to only a portion of a hunting season.

The production of this map is a cooperative effort between the Montana Board of Outfitters and the Department of Fish, Wildlife, and Parks. Electronic copies of this map may be obtained by contacting the Montana Board of Outfitters in Helena.

Montana Fish, Wildlife & Parks
Data Services Section
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Public land ownership, counties, roads, cities from the Natural Resource Information System, Montana State Library, Helena, MT.
Hunting districts and hydrography from Montana Fish, Wildlife & Parks, Helena, MT.
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Legislative Audit Division

State of Montana



Report to the Legislature

June 2000

Limited Scope Performance Audit

Net Client Hunter Use

Montana Board of Outfitters
Department of Commerce

This limited scope performance audit contains recommendations for improvements in program administration of net client hunter use (NCHU). Recommendations include:

- Implementing a system for monitoring and reporting on NCHU activity.
- Adjusting NCHU according to statute.
- Establishing a high priority for NCHU responsibilities.
- Developing a system for tracking acreage associated with the outfitter industry.

Direct comments/inquiries to:
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Chapter IV - Conclusion

2. Address game damage problems by opening new public hunting opportunities.
3. Directly restrict public access to public lands.

Conclusion: MBO Not Meeting Legislative Intent

In conclusion, the MBO is not meeting legislative intent and statutory requirements. This conclusion is based on a lack of program administration and documentation. Because MBO records do not contain justification of NCHU expansions, we cannot conclude on compliance with the law. The MBO should take further action to completely meet legislative intent and statutory requirements. The recommendations in this report should help accomplish this task.

Oversight of the Outfitter Industry

The other audit question is:

Does the MBO maintain adequate records to provide necessary oversight of the outfitter industry, as specified in statute?

The MBO has a process in place for licensing outfitters. In addition, MBO personnel are working with Department of Fish, Wildlife and Parks game wardens to monitor outfitter activity in the field. The MBO maintains outfitter records which provide information on outfitter operations. The operations plan forms the base record. Other information, such as amendments, NCHU changes, and renewals, provides data for ongoing operations. While MBO maintains outfitter records, current administrative procedures do not ensure records are accurate and kept up to date. MBO relies on the signature of the outfitter to affirm the information is accurate and complete. Some NCHU designation forms are checked, but there is no other testing or verification of written documentation.

Conclusion: MBO Does Not Maintain Adequate Records

It appears the MBO does not maintain adequate records to provide necessary oversight of the outfitter industry, as specified in statute. This conclusion is based on our review and considers the most recent legislation. The MBO needs to ensure information on NCHU and acreage, as well as other information, is accurate, complete, up to date, and useful. This will require implementation of processes and/or systems for tracking information. Changes to current forms are needed to focus data collection on areas of interest. In addition, the MBO needs a system for tracking the three-year "use-it-or-lose-it" law.

Chapter IV - Conclusion

NCHU and the Outfitter Industry

We did not conduct a survey of the public, but we received comments that suggest outfitters are leasing private land in Montana and taking away access and public hunting opportunities. Data has not been compiled regarding changes in public access as it relates to the outfitter industry. NCHU was implemented to control the net client base of outfitters and thus reduce the amount of leased land. While NCHU does limit the number of clients an outfitter may serve, an outfitter can expand their leased acreage without expanding their NCHU. In addition, an outfitter can increase their NCHU without expanding the amount of land they lease. While controls may be placed on the number of outfitter clients, controls over a landowner's use of his/her land will infringe on property rights.

According to MBO management, their main charge is consumer protection. They are to ensure the safety, health, and welfare of the public. The general duties of a licensing board include setting and enforcing standards and rules governing the licensing of members of the profession or occupation within its jurisdiction, in this case outfitters.

MBO management believes they are responsible for ensuring compliance with licensing standards, but question how regulating growth of the industry and compiling statistics relates to their charge. However, the section of law for uniform professional licensing and regulation procedures indicates laws relating to a specific board and the profession or occupation it regulates takes precedence over general professional and occupational licensing laws. It is the statutory responsibility of the MBO to regulate the outfitter industry and compile statistics. The oversight responsibilities placed on the MBO are a result of a perceived need for increased accountability because the outfitter industry uses wildlife, which is a public resource. While MBO is a licensing board, the legislature has assigned it responsibilities over and above general licensing standards. The MBO is responsible for complying with current laws. Thus, records must contain information on NCHU and acreage, as well as other required information such as operations plans.

passed the three-years from expansion will be completed within 90 days. All others will be ongoing and completed as their three-year timeframe lapses.

Recommendation #4 (p. 17)

We recommend the MBO establish a high priority for the NCHU responsibilities.

***Response:** We concur and will set this as a high priority. Now that the MBO is fully staffed and rules have been noticed and adopted as a result of SB334 we are in a better position to accomplish and set priorities. Also, due to the frequent change in Executive Directors and the complexity of NCHU, I have opted not to use inaccurate NCHU data previously recorded by FWP or past Executive Directors. **Timetable:** Immediately*

Recommendation #5 (p. 20)

We recommend the MBO change NCHU forms to tie categories and subcategories to FWP license prefixes.

***Response:** We concur. This inconsistency was brought to the auditor's attention just prior to the exit interview. We will add the FWP license categories to the forms for further clarification in order to alleviate the confusion the auditor discussed. **Timetable:** within two months all forms should be completed with FWP license categories.*

Recommendation #6 (p.22)

We recommend the MBO:

- A. Develop a system for tracking acreage associated with the outfitter industry.
- B. Implement a process, such as a "visual audit sheet" and field testing, to help ensure file information is accurate and up-to-date.

***Response to A:** We concur and will track acreage on the new client logs and through use of mapping of L-1's. In the past this information was provided on the "statistic" sheet and subject to individual interpretation. **Timetable:** New logs will be used for 2001 renewals and information ready in 12 months. Mapping will depend on FWP and the input of information, 18 months.*

***Response to B:** We concur. We currently have our investigators completing field contact sheets and FWP Wardens are enforcing outfitter laws and rules to ensure outfitters are in compliance and information is accurate. MBO investigators also now have a system, via FWP link, in which they can check outfitter sponsored licenses. Mapping capabilities will help ensure accuracy of acreage information. The "Visual Audit Sheet" is one of the ways we plan on making sure we are all on the same sheet of music. This will provide the outfitter with a synopsis of his file and require a signature attesting to it's accuracy. **Timetable:** Now for the field*